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ORUM & ROTH
53 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3606

In re Application of :
ROLF LARSSON :
Application No.: 09/582,003 : DECISION ON PETITION
PCT No.: PCT/SE98/02302 :
Int. Filing Date: 15 December 1998 : UNDER 37 CFR 1.181
Priority Date: 19 December 1997 :
Attorney Docket No.: 11412 :
For: WELDING APPARATUS :
:

This is a decision on applicants' "Petition Under 37 CFR 1.182 [sic]" requesting the withdrawal of abandonment in the above referenced application filed on 26 February 2002 in the United States Patent and Trademark Office (USPTO) and also filed as a communication on 23 January 2002. The petition is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 12 July 2000, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period were required. A one month period of time was set to respond to the Notification.

On 11 January 2002, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants indicating that applicants had failed to respond to said Notification of Missing Requirements.

Applicant submitted a communication on 23 January 2002 and the instant petition under 37 CFR 1.182 on 26 February 2002, requesting withdrawal of the holding of abandonment along with a copy of the declaration, assignment and canceled check in the amount of \$280 allegedly deposited on 01 September 2000 in the USPTO.

DISCUSSION

A review of the USPTO application file reveals that Notification of Missing

Requirements (Form PCT/DO/EO/905) was mailed to applicants on 12 July 2000. A review of the finance records for this application do not indicate that the \$130 surcharge or \$40 assignment fee were paid.

In his 23 January 2002 and 26 February 2002 submissions, applicant alleges that he mailed an executed declaration on 01 September 2000. However, the 01 September 2000 submission is not found in the application file. The 23 January 2002 submission includes a copy of the allegedly earlier filed declaration but does not include "a copy of the date-stamped postcard receipt" for 01 September 2000.

Without the 01 September 2000 submission, the application must be considered abandoned for failure to timely respond to the Notification of Missing Requirements. In requesting withdrawal of the abandonment of the application, applicant must file a petition under 37 CFR 1.181 providing a true copy of the USPTO date-stamped itemized postcard receipt indicating the filing of the declaration on 01 September 2000 along with a copy of the declaration as filed.

The evidence submitted is insufficient to establish that the declaration for this application was received in the USPTO on 01 September 2000. Accordingly, it is inappropriate to accept the copy of the declaration as a replacement for the missing original declaration with a deposit date of 01 September 2000 at this time.

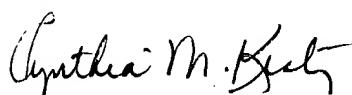
CONCLUSION

For the reasons stated above, the petition under 37 CFR 1.181 is **DISMISSED**
WITHOUT PREJUDICE.

The application remains **ABANDONED**.

Any reconsideration on the merits of this petition should be entitled "Renewed Petition under 37 CFR 1.181".

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK/cmk

Telephone: (703) 306-5467